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A SUMMARY

**WORKMEN'S COMPENSATION ACT
ONTARIO**Government
Publications

The object of this pamphlet is to set out in convenient form and for the information of the public the provisions of the Act which are of particular interest to employees, employers, and others throughout the Province. This should not be taken as the law but only as a brief summary, and for accuracy, reference should be made to the Act and Regulations which are the only legal source of information.

The Act extends to the employee protection for all accidents arising out of and in the course of the employment; it places the adjudication of claims in the hands of the Workmen's Compensation Board; and in most of the industries to which it applies it makes the employer's liability collective instead of individual.

WHAT IS COVERED

This law does not apply to all industries, but applies to the industries listed in Schedule 1 and Schedule 2 of the Regulations.

In the very large list of industries in Schedule 1 under the collective liability system, the Board collects assessments from the employers, forming an accident fund out of which compensation and medical aid are paid. In the much smaller list of industries in Schedule 2 each employer is individually liable, at the direction of the Board, to pay for compensation and medical aid to his employees for accidents as they occur.

Schedule 1 includes the businesses of manufacturing of all kinds, lumbering, mining, quarrying, stone crushing, stone cutting, milling, packing houses, canning factories, printing, warehousing, teaming, cartage; taxis and buses; building in all its branches; coal and wood yards; operation of theatres and moving picture places; gas works; light, power and waterworks systems; construction or repair of roads, streets, sewers, bridges, railways, canals, piers, and wharves; fishing, dredging and stevedoring; repair shops including automobile repairs; butchering; bakeries; dairies; hospitals; hotels; wholesale stores or warehouses; laundries; dyeing and cleaning; office and apartment buildings and restaurants; retail mercantile businesses; farm operations; and some others.

In Schedule 2 are the businesses of railway, street railway, express, telegraph, and Federal telephone companies; navigation, towing, and marine wrecking; municipalities, commissions, and school boards; and the Crown in right of the Province.

Other industries or employments may be added by the Board on the application of the employer.

"Employee" includes; all employees performing manual labour or other services, learners, members of municipal volunteer fire brigades, members of volunteer ambulance brigades, auxiliary members of Police Forces and persons who assist in search and rescue operations at the request of and under the direction of a member of the Ontario Provincial Police.

An employer, partner or an executive officer of a limited company is not protected unless he notifies the Board that he desires to be covered.

WHEN COMPENSATION PAYABLE

Compensation is payable where there is personal injury by accident arising out of and in the course of employment, and in the case of industrial diseases as defined by the Act and as included in Schedule 3.

The only exceptions are :

- (1) Where the injury does not disable the employee beyond the date of accident from earning full wages at the work at which he or she was employed ;
- (2) Where the accident is attributable solely to the serious and wilful misconduct of the employee and does not result in death or serious disablement.

The question of negligence or absence of negligence of employer or employee does not affect the payment of compensation.

No agreement to forego the benefits of the Act is valid. No contribution towards the benefits provided is collectable from the employees.

When any payment or advance is received by the employee from his employer during the period of disability, the amount is deducted from the compensation, and may be refunded to the employer.

All questions as to right to compensation and the amount of it are determined by the Board.

The compensation cannot be assigned, charged or attached, except with the approval of the Board.

The benefits provided are in lieu of a right of action for damages at law and such actions cannot be prosecuted for matters covered by the Act.

In industries not covered by the Act, actions for negligence may still be brought in the courts, but except for domestic servants, some of the employers' old defences are taken away. This is provided for in what is known as Part II of the Act, the part administered by the Board being called Part I.

COMPENSATION IN FATAL CASES

Where the accident results in death :

1. A lump sum of \$600.00 in addition to any other benefits is payable to the widow or widower. A common law widow or widower also qualifies in certain circumstances.
2. Burial expenses not exceeding \$600.00 plus consideration of transportation where it is necessary to transport the body a considerable distance for burial.
3. A pension of \$286.00 per month is payable to the widow or widower. In the event of remarriage, he or she would receive a lump sum settlement equal to two years pension payments.
4. Each child is entitled to a pension of \$77.00 per month to age 16 with a provision that it can be continued for educational purposes, or if the child is an invalid.
5. Where the sole dependants are children or where the widow or widower dies, the pension shall be \$88.00 for each child.
6. Where there is no dependant widow or widower or child, but there are other dependants, any award would be proportionate to the pecuniary loss but in no case shall it exceed \$286.00 per month.
7. Where orphan children are raised by a suitable foster parent, the foster parent may receive the same payments as if he or she were a widow or a widower, so long as any of the dependent children have entitlement.

COMPENSATION IN NON-FATAL CASES TEMPORARY TOTAL DISABILITY

An employee totally disabled is entitled to receive three-quarters (75%) of the average weekly earnings up to a weekly maximum payment of \$216.35. The amount of compensation to which an injured employee is entitled shall not be less than:

For temporary total disability,

- (i) Where his or her average earnings are not less than \$90.00 a week, \$90.00 a week, and
- (ii) Where his or her average earnings are less than \$90.00 a week, the amount of such earnings.

TEMPORARY PARTIAL DISABILITY

Full compensation benefits may now be paid to the temporarily partially disabled employees who are unable to obtain suitable employment, so long as they are available for and co-operate in medical or vocational rehabilitation programs, and are available for and are prepared to accept work suited to their capabilities.

Where the employee returns to employment, 75% of the loss in earnings will be paid.

PERMANENT DISABILITY

After maximum recovery, any permanent disability resulting from the accident is assessed. The award for permanent disability is in the form of a monthly pension except where the impairment is not more than 10 per cent, in which case payment may be made in a lump sum.

Permanent Disability pensions are based on the degree of disability and the employee's earnings prior to the accident. The maximum pension for total permanent disability is \$937.50 per month and the minimum is \$400.00 per month, or not less than the pensions payable to the dependants in a fatal case.

Death benefits are payable to dependants of a permanently totally disabled employee where death occurs from any cause.

MEDICAL CARE

When the employee's claim is allowed under the Act no matter what the length of disability, the employee is entitled to medical, surgical and dental aid, the aid of drugless practitioners and chiropractors registered in Ontario. Hospital and skilled nursing services are paid for and in the discretion of the Board where an employee is rendered helpless through permanent total disability such other treatment, services or attendance necessary as a result of the injury. He or she is also entitled to be supplied with artificial members, apparatus, dental appliances and apparatus rendered necessary as a result of the accident, and to have it kept in repair or replaced when deemed necessary by the Board. Artificial members or apparatus damaged as a result of an accident arising out of and in the course of the employment are repaired or replaced. All this is included under the term "Medical Aid."

In Schedule 1 industries this is paid out of the accident fund by the Board, while in Schedule 2 industries it is paid for by the employer, at the direction of the Board. Any questions or disputes are to be determined by the Board.

Where an employee's claim is allowed under the Act, it is unlawful for any employer to collect or retain any contribution toward medical aid; nor is a doctor entitled to collect from the employee for services under the Act. The fees paid are regulated by a schedule approved by the Board after consultation with the professions involved.

FIRST AID AND AMBULANCE

Where the number of employees warrants it, employers are required by regulation under the authority of the Act to provide at their factory, plant or place of employment, suitable first aid or emergency equipment as prescribed.

Employers are also to furnish to injured employees in need of it immediately following an accident, ambulance or transportation to doctor, hospital, or home.

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REHABILITATION

The Act provides that the Board may take such measures and make such expenditures as are deemed necessary or expedient to rehabilitate injured employees. For this purpose the Board has established a Vocational Rehabilitation Branch to aid injured employees, particularly those who are seriously disabled, to overcome obstacles to re-employment.

ACCIDENT FUND

The accident fund, out of which compensation and medical aid are paid in Schedule 1 industries, is collected by annual assessments. The rate of assessment is expressed as so many dollars or cents for each \$100 of assessable payroll. Only amounts necessary to pay for accidents in each class of industry are collected.

Every employer carrying on an industry in Schedule 1 is required to forward to the Board, not later than the last day of February of each year, a statement of the amount of wages paid during the prior year and an estimate of the amount expected to be paid during the current year. Every employer commencing a business operation under the Act during the year must report it to the Board immediately. Careful account of wages must be kept.

The assessment for the year is first made at the beginning of the year upon the estimate of pay roll and is adjusted after the close of the year according to the actual pay roll. The minimum annual assessment is \$25.00.

Employers in Schedule 2 who have accidents are assessed for their portion of administration expenses but do not otherwise contribute to the accident fund.

REPORTING OF ACCIDENTS

The employee is required to notify his or her employer and the Board at once of the accident and the employer in all cases involving compensation or medical aid must notify the Board within three days after he or she learns of the happening of an accident.

Posters, telling both employee and employer what they should do in case of accident, are supplied by the Board and required to be posted up by the employer where they can be seen by the employees. See also following instructions.

WHAT TO DO IN CASE OF ACCIDENT

THE EMPLOYEE IS REQUIRED TO:

- Ask for first aid where proper;
- Notify the employer and the Board at once of the injury;
- Arrange with the employer for medical aid if necessary;
- Have report forms received from Board promptly attended to.

THE EMPLOYER IS REQUIRED TO:

- Provide first aid according to the regulations;
- Assist in arranging for a doctor where necessary;
- Provide ambulance or transportation to doctor, home or hospital where necessary;
- Notify the Board within three days after he or she learns of the happening of every accident disabling an employee or necessitating medical aid;
- Furnish the Board promptly with reports and information as prescribed or requested.

FOR INFORMATION

THE WORKMEN'S COMPENSATION BOARD

Head Office:	Telephone	Area Code
2 Bloor Street East, Toronto, Ontario M4W 3C3	965-8500	416
Area Offices:		
350 Sparks St., Room 206, Ottawa, Ontario K1R 7S8	238-7851	613
1265 Arthur Street East, Room 101, Thunder Bay "F", Ontario P7E 6E7	623-4545	807
787 Ouellette Avenue, Windsor, Ontario N9A 4J4	256-3461	519
151 Frederick Street, Kitchener, Ontario N2H 2M2	576-4130	519
189 Wyld Street, Box 3190, North Bay, Ontario P1B 1Z2	472-5200	705
224 Elm Street West, Sudbury, Ontario P3C 1V3	673-6701	705
495 Richmond Street, London, Ontario N6A 5A9	433-2331	519
100 Main St. East, Room 4103, Hamilton, Ontario L8N 3W6	523-1800	416